

Environmental Conflict Resolution: Program Evaluation Overview

The U.S. Institute for Environmental Conflict Resolution (the U.S. Institute) has developed a Program Evaluation System to assess outcomes and effectiveness of its environmental conflict resolution (ECR) program. The Program Evaluation System seeks to answer the basic questions posed by the Government Performance and Resolution Act: 1) What is your program or organization trying to achieve? 2) How will its effectiveness be determined? 3) How is it actually doing? To this end, desired outcomes for each of the U.S. Institute's program areas have been specified, and data collection methods have been devised to measure performance.

Design work for the Program Evaluation System began in 1999 when the U.S. Institute and the Policy Consensus Initiative (PCI) began examining the feasibility of developing program evaluation guidance for state and federal agencies and other programs that administer public policy and ECR programs. That project has evolved into an ongoing collaborative initiative. This initiative currently involves the U.S. Institute, PCI, the Massachusetts Office of Dispute Resolution, the Oregon Dispute Resolution Commission, the Maryland Mediation and Conflict Resolution Office, the Florida Conflict Resolution Consortium, and the Ohio Commission on Dispute Resolution and Conflict Management. The initiative has also received support from the Indiana Conflict Resolution Institute, Indiana University's School for Public and Environmental Affairs, Syracuse University's Maxwell School for Citizenship and Public Affairs, The University of Arizona's Udall Center for Studies in Public Policy, the William and Flora Hewlett Foundation, and the U.S. Institute's program evaluation consultant Dr. Andy Rowe.

The U.S. Institute's Program Evaluation System concentrates on five program areas:

- 1) environmental conflict assessment services;
- 2) environmental conflict resolution services;
- 3) public meeting facilitation services;
- 4) training courses and workshops; and
- 5) operation of the National Roster of Environmental Dispute Resolution and Consensus Building Professionals;

Another program area, dispute system design, will be included at a later stage.

One of the most important aspects of the U.S. Institutes' Program Evaluation System design is the emphasis on creating instruments with diagnostic power. Even though ECR rests on a relatively stable foundation of alternative dispute resolution theory and practice, there are still many sources of uncertainty concerning how a particular configuration of key elements (i.e. practitioner, parties, process design) will perform in a specific case. For this reason, it is vital that the evaluation process generate information that can be used to diagnose why a particular case may fail to reach desired outcomes.

The Program Evaluation System at the U.S. Institute is a long-term investment in testing implicit assumptions underlying ECR theory and, over time, should result in improving the performance of collaborative ECR approaches. In turn, this should lead to more durable and complete resolutions and allow policy makers to compare ECR with other available options, such as litigation and administrative

adjudication. Ultimately, this will result in appropriate allocation of public and private resources to those processes that most efficiently resolve environmental conflicts in the public interest.

The Program Evaluation System involves the administration of questionnaires to parties and professionals engaged in U.S. Institute projects, as well as to members and users of the National Roster. Information gathered through the Program Evaluation System will provide other agencies, researchers and the public with much-needed information concerning effectiveness of ECR initiatives and performance of the U.S. Institute's programs and services. Access to such information will be facilitated to the extent possible; however, the U.S. Institute is also committed to managing the collection and reporting of data in a manner that prevents interference with any ongoing ECR processes or the subsequent implementation of agreements. The U.S. Institute also maintains a confidentiality statement on all instruments associated with program evaluation. In keeping with that statement and other U.S. Institute standards, the U.S. Institute follows data management and reporting procedures designed to protect both the anonymity of respondents and the confidentiality of their responses. Requests for evaluation data or evaluation reports under the Freedom of Information Act will be evaluated on a case-by-case basis.

Before the data collection phase could begin, the U.S. Institute was required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) to obtain approval from the federal Office of Management and Budget (OMB) to administer the questionnaires to non-federal organizations and individuals. The U.S. Institute received approval of the information collection instruments by OMB on June 19, 2002. The final approval by OMB opened the door for the launch of the Institute's Program Evaluation System. The Program Evaluation System was piloted during 2002 and full implementation began in Spring 2003.

ECR Logic Model

Program evaluation efforts necessarily require systematic articulation of expected outcomes or accomplishments, and required inputs or ingredients for success. Analyzing performance rests on certain basic operating assumptions or program theory which connects expected outcomes and required inputs as well as a methodology for collecting data and measuring inputs and achievement of outcomes.

To evaluate ECR processes a logic model has been constructed that specifies best practice factors (the right stakeholders are engaged, an appropriate facilitator or mediator guides the process, the best information is provided, etc.), process outcomes (participants are engaged effectively, disagreements are narrowed, participants' capacity to manage conflict is improved, etc.), and agreement outcomes (agreements are complete and durable, issues over which participants cannot agree are addressed in other ways, participants are satisfied with the agreement, etc.). The model applies to both "upstream" processes in which agreement is sought on plans, policies, regulations or recommendations, and "downstream" processes which focus on resolution of disputes, frequently over enforcement of policies or regulations. A facilitator may guide upstream processes while a mediator may help resolve disputes in a downstream process.

Following is an overview of the ECR best practice factors, process and agreement outcomes of ECR processes, and impacts (i.e., those long-term outcomes for which the U.S. Institute shares accountability). Definitions of key terms are provided. The chart on the following pages depicts the relationships among the best practice factors and outcomes (Figure 1).

Overview of ECR Best Practice Factors, Process and Agreement Outcomes and Definitions

Best Practice Factors

1. ECR is used if it is the best approach.
This is an outcome determined by the Conflict Assessment process.
2. Right parties with decision-making authority are effectively engaged in the process.
Right parties are those who have decision-making authority are affected by or have a strong interest in the controversy, or who are needed to successfully implement an agreement. Effective engagement involves active participation in discussions and creative problem solving. Parties need to be engaged throughout the process; if additional “right parties” are identified during the process, they should be added to the participants in the collaborative group.
3. Appropriate scope & design is used.
The process design and scope reflects the complexity of the controversy, the number of parties, and the relative importance of the issues (perhaps with some issues not amenable to negotiation). The process could include a single group or several working groups and a steering committee, shuttle diplomacy among groups, a hierarchical plan to address specific issues, or various other designs.
4. Parties have the capacity to engage in the process.
The process is affordable (parties have sufficient money and time) and culturally acceptable. Individuals who have attitudes, aptitudes and skills needed for active participation in collaborative processes and who can speak for each party represent them in negotiations.
5. Appropriate neutral(s) guides the process.
An appropriate neutral is one who has skills and experience relevant to the process used, and sufficient substantive knowledge to understand the issues and the positions/interests of the parties. An appropriate neutral will facilitate/mediate impartially, provide clear direction and manage time well.
6. Best information (e.g., legal, technical) used by parties.
A process is used for obtaining information (scientific, legal, economic, cultural, etc) and illuminating areas of agreement/ disagreement among experts, and the results are presented in a manner appropriate to the knowledge levels and skills of the participants.

Process Outcomes

7. Parties communicate and collaborate.
Parties’ listen and can articulate what others express; discussion focuses on the issues, not the parties.
8. Use of ECR narrows disagreements to key issues.
ECR reduces the number of issues, focuses on high priority issues, and identifies issues that are better dealt with in another forum.
9. Parties’ capacity to manage or resolve conflicts is improved.
Disputes are addressed and resolved sooner; need for assistance is reduced.
10. All parties are satisfied with the process.
All parties perceive an improvement in the relationships among parties, consider the process to have been fair and open, and are satisfied with the services of the U.S. Institute.

Agreement Outcomes

11. Parties reach complete and durable agreements.

Agreements involve plans, proposal, recommendations or settlements of disputes. Agreements are written documents signed by a representative of each party. No critical issues are left out of the agreement; anything that could derail the agreement is addressed. Agreements are specific and measurable; have attainable provisions addressing the relevant controversy, and meet relevant legal requirements.

12. All parties involved are satisfied with what they have accomplished.

Parties are satisfied with the agreement.

13. Agreements are implemented.

Each party as specified enacts terms of the agreement.

Impacts

14. Agreements are implemented.

Each party as specified enacts terms of the agreement.

15. Agreements endure changes in conditions and unanticipated events.

Terms and conditions are realized fully and within agreed upon schedules.

16. Parties will use collaborative process more frequently and expend fewer resources on disputes: fewer and less intense disputes will occur.

Increased use of collaborative processes in the future will improve the management of conflict and the resolution of disputes.

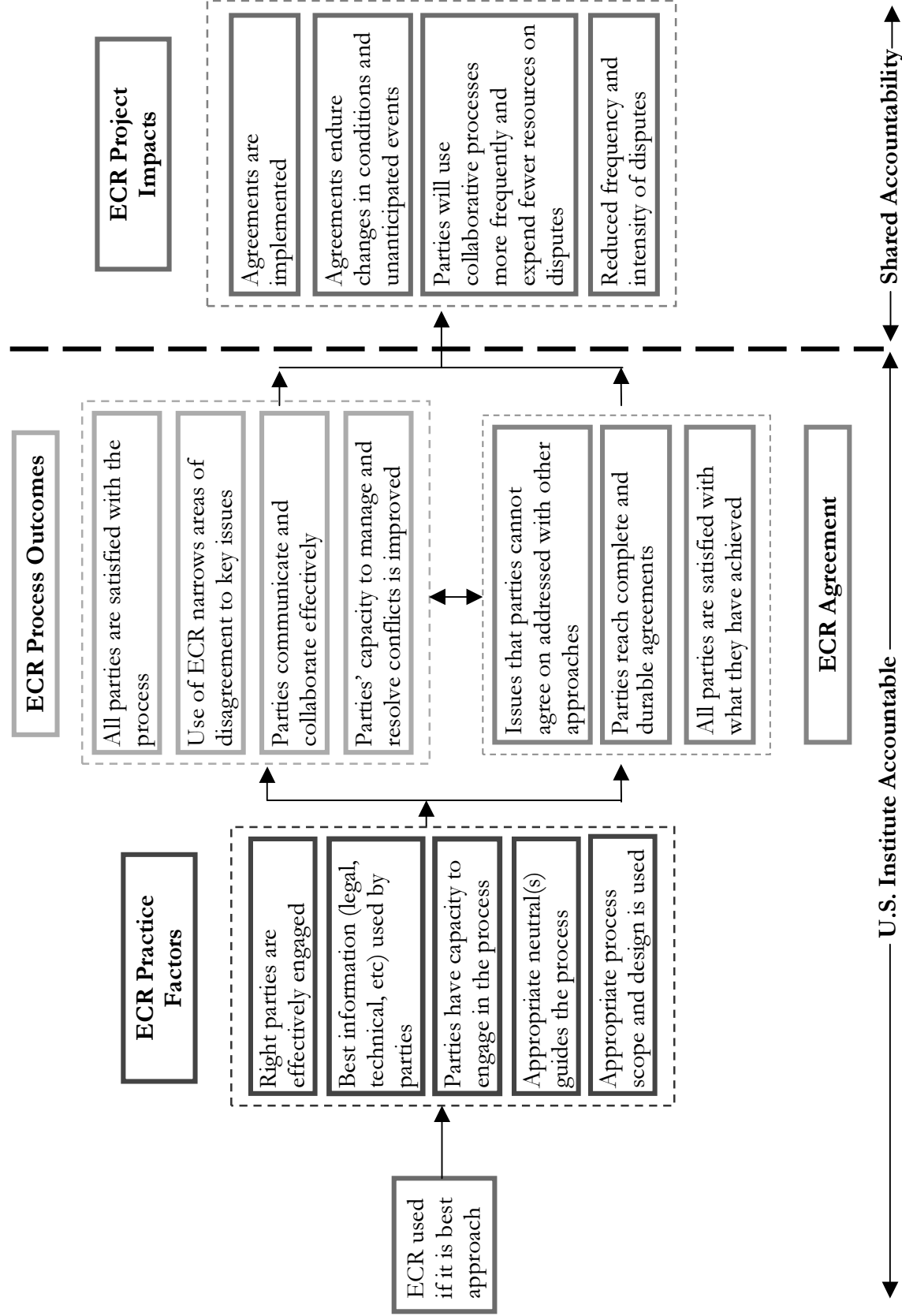


FIGURE 1. OUTCOMES FOR ECR PROCESSES

Evaluation Instruments

Seven questionnaires have been designed to collect information for evaluating each of the best practice factors and outcomes for ECR processes. The questionnaires are administered to: (1) the project manager, (2) the neutral(s), (3) the parties, (4) the parties' attorneys, and (5) the parties several months following the conclusion of the process.

Project Manager: Conclusion of Process

Project Managers are asked to complete a questionnaire at the conclusion of the ECR process. This questionnaire focuses on the nature of the process and the involvement of the parties, the performance of the neutral, and the progress made by the parties in terms of achieving process as well as agreement outcomes.

Neutrals: Conclusion of Process and Case Summary

When the ECR process concludes, neutrals are asked to complete two questionnaires to determine their views on a variety of issues. The first questionnaire, the case summary, is designed to help characterize the controversy. Data and information from this questionnaire explore the benefits from the collaborative process, and insights concerning which controversies are most appropriate for collaborative processes, along with suggestions regarding the design and implementation of ECR processes.

The second and more detailed neutral questionnaire is designed to capture the neutrals' insights on the ECR process and agreement outcomes. (Note: there are two versions of this questionnaire—one for process that are led by a single neutral, and one for processes led by multiple neutrals.) Data and information from this questionnaire explore if the ECR approach was well suited to the nature of the issues in conflict; were all key parties consulted, and were all key issues and alternatives properly identified and considered?

Parties: Conclusion of Process

Parties to ECR processes (participants at the table) are asked to complete a questionnaire at the conclusion of the process. Data and information for this questionnaire establish if the parties are now more likely to consider collaborative processes in the future; were the “right” parties effectively engaged throughout the process; was there an appropriate scope and design for the ECR process; did the parties have the capacity to engage in the process; was the neutral (or team) that guided the process appropriate; did all parties have access to the best available and relevant information? The voluntary questionnaire contains 29 questions, many of which require respondents to only fill-in-the blank with their level of agreement or a rating number. Information from the questionnaire is used to evaluate if the intended ECR outcomes were achieved, and if so or if not, why.

Attorneys: Conclusion of Process (Mediation Only)

Immediately following conclusion of an environmental mediation, attorneys (if any) who represented parties to the dispute are asked to complete a questionnaire to determine their views on a variety of issues. Topics to be investigated are similar to those in parties' questionnaire above, except this instrument places greater emphasis on gaining a legal perspective. This voluntary questionnaire contains 38 questions, and only a few of these require other than a simple fill-in-the blank response. Information from this questionnaire is used to evaluate if the intended ECR outcomes were achieved, and if so or if not, why.

Parties: Follow-Up to Process

To gain information concerning the longer-term effectiveness of the ECR process, an additional questionnaire will be administered to the parties at a future date following conclusion of the process. Topics to be examined include: do all parties perceive an improvement in their collective relationships; do the parties consider the ECR process to have been fair and open; did the decision makers agree to implement the plans, proposals, recommendations or settlement agreement, and - if implemented - did the solution endure changes in conditions and unanticipated events; and are the parties satisfied with services of the U.S. Institute? The voluntary questionnaire contains 13 questions, many of which require respondents to only fill-in-the blank with their level of agreement or a rating number. Information from the questionnaire is used to evaluate if the ECR outcomes were sustainable, and if so or if not, why.